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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/855,992	05/15/2001	Charles Eric Hunter	WT-17	9374

7590

04/03/2002

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EXAMINER

ELISCA, PIERRE E

ART UNIT

PAPER NUMBER

2161

DATE MAILED: 04/03/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/855,992

Applicant(s)
Charles Eric, Hunter

Examiner
Pierre E. Elisca

Art Unit
2161



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE THREE MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 5/15/2001
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-89 is/are pending in the application.
- 4a) Of the above, claim(s) NONE is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16, 18-27, 29-59, 61-70 AND 72-89 is/are rejected.
- 7) ☒ Claim(s) 17, 28, 60 AND 71 is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 20) ☐ Other: _____

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Examiner Pierre Eddy Elisca

United States Department of Commerce

Patent and Trademark Office

Washington, D.C. 20231

DETAILED ACTION

1. This Office action is in response to Application No. 09/855,992, filed on 05/15/2001.
2. Claims 1-89 are presented for examination.

ABSTRACT

3. The abstract of the disclosure is objected to because of the following informalities. Applicant is advised to remove the line at the bottom of the abstract.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

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(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371© of this title before the invention thereof by the applicant for patent.

5. Claims 1-16, 18-27, 29-42, 47-59, 61-70 and 72-85 are rejected under 35 U.S.C. 102 (e) as being anticipated by Kleiman (U.S. Pat. No. 5,959,945).

As per claims 1, 3, 4, 8-16, 18-21, 23-27, 29-31, 36, 37, 39-42, 84, Kleiman discloses a method/system for distributing music to local, digital electronic jukeboxes, see., abstract, lines 1 and 2 (which is seen to read on Applicant's claimed invention wherein said a system for distributing music to a plurality of customer households), the system comprising:

a data transmission system for blanket transmitting a plurality of music selections to the plurality of customer households in digital format (see., abstract, lines 5-9, jukebox or customer);

a user station at each of the plurality of customer households, the user station including (see., abstract, lines 9-14, col 4, lines 21-31, col 6, lines 22-40, fig 1, Its);

a user interface for permitting each customer household to preselect desired transmitted music selections for recording (see., fig 1, element CM1-n, telephone modem);

a receiver and associated high capacity storage medium for recording (recording or download the music) the preselected music selections in digital form (see., abstract, lines 9-17, col 4, lines 21-31, col 6, lines 22-40, fig 1, Its);

an audio output for outputting audio signals from the high capacity storage medium to a playback device for enabling the customer household to playback the recorded music selections (see., abstract,

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5-19, please note that the jukebox of Kleiman can also outputting audio signal and playback the recorded music);

a central controller system having a database for storing therein information corresponding to each customer household (see., fig 1, abstract, lines 3-19, specifically the central storage location or central controller);

a communications link between each of the plurality of customer households and the central controller system for verifying to the controller system when a preselected music selection has been made available for playback (see., abstract, lines 5-17, please note that since the central storage location or central controller periodically updates, processes, and schedules individual requests from each jukebox or customer, during which time the jukebox or customer can download or copy the music, and therefore, can verify when music selection has been recorded or download or copy);

a billing system associated with the central controller system to bill customer households for music selections that are made available for playback (see., col 5, lines 16-28, specifically wherein it is stated that "a secure environment for the transfer of music and other sensitive information for purchasing songs or paying (paying or billing) for services from the central storage location to each of the computer jukeboxes (jukeboxes or customer), please note that the secure environment of Kleiman is capable of billing the customer or jukebox for the music selection). Kleiman also discloses a distributing music to local, electronic jukeboxes via satellite see., abstract, lines 1 and 2, col 7, lines 38-45).

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As per claims 5, 6, 7, 22, 32-35, 38 and 85 Kleiman discloses the claimed limitation, wherein the music content transmitted to the central controller system is encoded (see., abstract, lines 19-21, encrypt and decrypt music and monetary certificates).

As per claims 2, 47-59, 61-70, 72-83 Kleiman discloses the claimed method/system for distributing music to local, electronic jukeboxes via satellite see., abstract, lines 1 and 2, col 7, lines 38-45 (which is seen to read as Applicant's claimed invention wherein it is stated that a system for distributing music to customer households), comprising:

blanket transmitting a plurality of music selections to the plurality of customer households in digital format (see., abstract, lines 5-9, col 7, lines 10-58, fig 1, Its)

providing each of the plurality of customer households with information identifying available music selections that will be transmitted (see., abstract, lines 9-17, col 4, lines 21-31, col 6, lines 22-40, fig 1, Its);

permitting each of the plurality of customer households to preselect and record music selections on a high capacity storage medium (see., abstract, lines 9-14, col 4, lines 21-31, col 6, lines 22-40, fig 1, Its);

enabling each customer household to playback the record music selection (see., fig 1, download or record the music, the jukebox of Kleiman is capable of playing the recorded music selections);

communicating music playback information from each of the plurality of customer households to a central controller system (see., abstract, lines 2-17, please note that the central storage location is

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readable as a central controller database, since it can coordinate transmission of music to multiple locations simultaneously and update the local jukeboxes);

billing each of the plurality of customer households for the recorded music selections that are made available for playback (see., col 5, lines 16-28, specifically wherein it is stated that “a secure environment for the transfer of music and other sensitive information for purchasing songs or paying (paying or billing) for services from the central storage location to each of the computer jukeboxes (jukeboxes or customer), please note that the secure environment of Kleiman is capable of billing the customer or jukebox for the music selection).

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 43-46 and 86-89 are rejected under 35 U.S.C. 103 (a) as being unpatentable over Kleiman in view of Looney et al. (U.S. pat. No. 5,969,283).

As per claims 43, 44-46 and 86-89 Kleiman substantially discloses the claimed limitations as stated in claim 18 above. It is noted that Kleiman does not explicitly disclose that an ID tag has been recorded into the recorded music to identify the customer at which the recorded is made.

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However, **Looney** discloses a music organizer and entertainment center wherein a CD-ROM and/ or individual songs can include a special code or identification that is keyed to the user's system code. In this manner only the user's system can load the songs on its hard drive, see., Looney, col 2, lines 51-54 (which is equivalent to the limitation detailed above wherein said an ID tag or ID in the recorded music to identify the customer at which the recording is made).

Accordingly, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to modify the music distribution of Kleiman by including the membership customer ID or ID tag taught by Looney because such modification would provide the music distribution of Kleiman with the advantage of having an individual ID for customers, the customer can have a library of music to playback in a variety of portable and fixed base units (see., Looney, col 2, lines 56-58).

Allowable Subject Matter

8. Claims 17, 28, 60 and 71 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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CONCLUSION

9. Any inquiry concerning this communication from the examiner should be directed to Pierre Eddy Elisca at (703) 305-3987. The examiner can normally be reached on Tuesday to Friday from 6:30AM to 5:00PM.

If any attempt to reach the examiner by telephone is unsuccessful, the examiner's supervisor, James Trammell can be reached on (703) 305-9769.

Any response to this action should be mailed to:

Commissioner of Patents of Trademarks

Washington, D.C. 20231

or faxed to:

(703) 308-9051, (for formal communications intended for entry)

OR

(703) 305-9724, (for informal or draft communications, please label "PROPOSED" or "DRAFT")

Hand-delivered responses should be brought to Crystal Park II, 2121 Crystal Drive, Arlington, VA., Sixth floor (receptionist).

The Official Fax Numbers For TC-2100 Are:

After-final (703) 746-7238

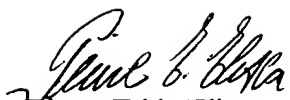
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Pierre Eddy Elisca

Patent Examiner

March 26, 2002